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EXAMINER

CHRISTENSEN, SCOTT B

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/675,655	Applicant(s) HOUGHTON ET AL.	
	Examiner Scott Christensen	Art Unit 2444	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-64 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-64 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This Office Action is in regards to the most recent papers filed on 11/6/2008.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-6, 8, 10-14, 17-18, 20-21, 25-26, 39-44, 46, 48-52, and 55-64 are rejected under 35 U.S.C. 103(a) as being unpatentable over White et al. in US Patent Application Publication number US 2004/0139180, hereafter referred to as "White."

4. With regard to claim 1, White discloses a system for wirelessly playing media files, the system comprising:

a server having a memory for storing the media files (White: Figure 2, 110);

a station operably connected to the server (White: Figure 2, 120);

at least one client, the at least one client capable of accessing and downloading the files by wirelessly communicating with the server via the station from a plurality of remote locations from the station and the server (White: Figure 2, 130 and Paragraph [0014]. The mobile media server (130) is capable of accessing and downloading the files through the wireless hub anywhere within range of the wireless hub. As the mobile media server can be anywhere within range of the hub, this constitutes a plurality of locations.), wherein only specific ones of the media files are accessed and downloaded

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by the at least one client based on a particular location of the at least one client (White: Abstract. The media files are only downloaded when the client is in range of the server, meaning that the access and download is based on a particular location.).

White does not disclose expressly a plurality of devices capable of outputting the specific ones of the media files, wherein the at least one client operably connects to the devices.

However, Examiner takes Official Notice (See MPEP §2144.03) that this functionality was well known by a person of ordinary skill in the art.

The Applicant is entitled to traverse any/all Official Notice taken in this action according to MPEP §2144.03. However, MPEP §2144.03 further states "See also *In re Boon*, 439 F.2d 724, 169 USPQ 231 (CCPA 1971) (a challenge to the taking of judicial notice must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying the judicial notice)."

Specifically, *In re Boon*, 169 USPQ 231, 234 states "as we held in *Alhert*, an applicant must be given the opportunity to challenge either the correctness of the fact asserted or the notoriety or repute of the reference cited in support of this assertion. We did not mean to imply by this statement that a bald challenge, with nothing more, would be all that was needed." Further note that 37 CFR §1.67(c)(3) states "Judicial notice means official notice." Thus, a traversal by the Applicant that is merely "a bald challenge, with nothing more" will be given very little weight.

Accordingly, it would have been obvious to have a plurality of devices capable of outputting the media files, wherein the client connects to the devices.

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The suggestion/motivation for doing so would have been that the server and car of White, themselves cannot output the media files without some sort of speaker arrangement. Stereo speakers within cars are very well known in the art, have been implemented long before the filing of the instant application.

5. With regard to claim 2, White teaches that the at least one client comprises:
a wireless transceiver (White: Figure 3, 72);
a processing unit running an operating system (White: Figure 3, 62 and 60);
a display (White: Figure 3, 70 and Paragraph [0025]); and
a decoder that decodes the specific ones of the downloaded media files (White: Paragraph [0024]. The mobile server is capable of playing the downloaded media files and CDs, so the mobile server is clearly has some sort of decoder to play the files.).

6. With regard to claim 3, White teaches that the at least one client comprises a player that plays the decoded specific ones of the media files (White: Paragraph [0024]. The media is presented within the automobile, so clearly there is some sort of player that plays the media files.).

7. With regard to claim 4, White teaches the invention as substantially claimed, except that the at least one client outputs the specific ones of the media file in analog format to a device capable of outputting analog media files.

However, Official Notice is taken that this functionality was well known in the art.

It would have been obvious to output the specific ones of the media file in analog format to a device capable of outputting analog media files.

The suggestion/motivation for doing so would have been that some speakers, especially older speakers, are only capable of playing analog signals, and must have an analog signal input into them to properly play the media file.

8. With regard to claim 4, White teaches the invention as substantially claimed, except that the at least one client outputs the specific ones of the media file in digital format to a device capable of outputting analog media files.

However, Official Notice is taken that this functionality was well known in the art.

It would have been obvious to output the specific ones of the media file in digital format to a device capable of outputting digital media files.

The suggestion/motivation for doing so would have been that digital audio is easier to reproduce without errors, and thus may have higher quality in reproduction of the media file's contents than analog technologies.

9. With regard to claim 6, White teaches that the at least one client is capable of accessing, downloading and decoding portions of the specific ones of the media files (White: Paragraph [0014]. As the media file is being downloaded, at least a portion is being downloaded. It is noted that there is no requirement in the claim that the portion cannot be the entire media file.).

10. With regard to claim 8, White teaches the invention as substantially claimed, except that the at least one client is battery-operated.

However, Examiner takes Official Notice that this functionality was well known in the art.

Accordingly, it would have been obvious to have the client of White being battery-operated.

The suggestion/motivation for doing so would have been that the client (mobile media server) of White resides in the car (White: Figure 2). Therefore, having the mobile media server powered by the battery of the car would allow the functions of the system to occur without special equipment and while the car is not on.

11. With regard to claim 10, White teaches that the at least one client is built into a mobile device (White: Figure 2. The mobile media server is built into a car, which is a mobile device.).

12. With regard to claim 11, White teaches that the mobile device includes a memory where the specific ones of the downloaded media files are stored (White: Figure 3, 64).

13. With regard to claim 12, White teaches that the at least one client is for use in a car (White: Figure 2, 140).

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14. With regard to claim 13, White teaches that the car includes a memory where the specific ones of the downloaded media files are stored (White: Figure 3, 64).

15. With regard to claim 14, White teaches that the at least one client is capable of automatically accessing and downloading the specific ones of the media files on the server when the car is within communicating distance from the station (White: Paragraph [0034]).

16. With regard to claim 17, White teaches that the system comprises at least a second server (White: Paragraph [0033]).

17. With regard to claim 18, White teaches that the system comprises at least a second station (White: Paragraph [0033]).

18. With regard to claim 20, the instant claim is substantially similar to subject matter presented in claims 1-3, and is rejected for substantially similar reasons.

19. With regard to claims 21 and 25, the instant claims are substantially similar to claims 6 and 14, and are rejected for substantially similar reasons.

20. With regard to claim 26, White teaches:

automatically accessing the specific ones of the media files on the server by the client in the car, when the car comes inside the area covered by the wireless network of the station (White: Paragraph [0034]);

comparing the media files stored in the memory of the server with a list of media files stored in the memory of the car (White: Paragraph [0034]. The mobile server and home server are synchronized, meaning that a comparison of the media is made, and changes are determined that need to be made.); and

downloading specific ones of the media files in the server that are not in the memory in the car, if the memory in the car has sufficient storage space (White: Paragraph [0034]. The files can only be synchronized if there is enough space.).

White does not teach expressly the step of:

removing media files in the memory in the car, then downloading the specific ones of the media files in the server that are not in the memory in the car, if the memory in the car does not have sufficient storage space for more media files.

However, Examiner takes Official Notice that this functionality was well known in the art.

It would have been obvious to combine the teachings of White with this functionality.

The suggestion/motivation for doing so would have been that the memory within the mobile media server of White would most likely not have infinite space. Therefore, only a finite number of media files can be stored within the memory. In cases where there is not enough space, rather than foregoing the process of synchronization all

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together, the user can erase files within the memory to allow for more files to be downloaded. It is noted that there is no requirement that this be done automatically, and a user manually performing the operation meets the language used in the instant claim.

21. With regard to claim 29, White teaches the invention as substantially claimed except that the specific ones of the media files are accessed and downloaded from a specified directory on the server that is associated with the particular location of the client.

However, Official Notice is taken that this functionality was well known in the art.

Thus, it would have been obvious to modify White to have the specific ones of the media files are accessed and downloaded from a specified directory on the server that is associated with the particular location of the client.

The suggestion/motivation for doing so would have been that White is concerned with synchronizing the mobile media server with a set of media (White: Abstract). Thus, the set of media should be a specific set of media, with specific locations. There would be two ways to implement this. First, the media locations can be stored in a table, and the media server would follow each pointer in the table to locate the media. The second way would be to simply have the set of media being all the media in a specific directory. Clearly, the second method would require less resources, as the media would all be in a specified location, and there would be less problems with maintaining the table (i.e. if the file is present, it is to be copied. Meanwhile, with a table, if the file is deleted or

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moved, the table must be updated through some process in order to ensure that the table reflects the current state of the library.).

22. With regard to claim 30, White teaches the invention as substantially claimed except that an association between a list of specific ones of the files to be accessed and downloaded and the particular location of the at least one client is created by a user.

However, Official Notice is taken that this functionality was well known in the art.

Thus, it would have been obvious to allow a user to determine the list of files to be accessed and downloaded by the at least one client.

The suggestion/motivation for doing so would have been that allowing the user to create the list of files to be accessed and downloaded allows the user to determine which songs the user will listen to based on the user's preferences.

23. With regard to claim 31, White teaches that the at least one client automatically retrieves the specific ones of the media files from a directory residing in the server based on the particular location of the at least one client (White: Abstract. When the mobile media server enters range, synchronization is automatic.).

24. With regard to claim 32, White teaches that the at least one client automatically synchronizes with a server that is associated with the particular location of the client (White: Abstract). However, White does not disclose expressly that the synchronization is with a directory residing in the server.

However, Official Notice is taken that this functionality was well known in the art.

Thus, it would have been obvious to modify White to have the synchronization being with a directory residing in the server.

The suggestion/motivation for doing so would have been that White is concerned with synchronizing the mobile media server with a set of media (White: Abstract). Thus, the set of media should be a specific set of media, with specific locations. There would be two ways to implement this. First, the media locations can be stored in a table, and the media server would follow each pointer in the table to locate the media. The second way would be to simply have the set of media being all the media in a specific directory. Clearly, the second method would require less resources, as the media would all be in a specified location, and there would be less problems with maintaining the table (i.e. if the file is present, it is to be copied. Meanwhile, with a table, if the file is deleted or moved, the table must be updated through some process in order to ensure that the table reflects the current state of the library.).

25. With regard to claim 33, White teaches that the at least one client compares a list of locally stored media files with a list of the specific ones of the media files in server that is associated with the particular location of the at least one client (White: Paragraph [0028]). However, White does not disclose that the set of media files is in a directory.

However, Official Notice is taken that this functionality was well known in the art.

Thus, it would have been obvious to modify White to have the comparison being with a directory residing in the server.

The suggestion/motivation for doing so would have been that White is concerned with synchronizing the mobile media server with a set of media (White: Abstract). Thus, the set of media should be a specific set of media, with specific locations. There would be two ways to implement this. First, the media locations can be stored in a table, and the media server would follow each pointer in the table to locate the media. The second way would be to simply have the set of media being all the media in a specific directory. Clearly, the second method would require less resources, as the media would all be in a specified location, and there would be less problems with maintaining the table (i.e. if the file is present, it is to be copied. Meanwhile, with a table, if the file is deleted or moved, the table must be updated through some process in order to ensure that the table reflects the current state of the library.).

26. With regard to claim 34, White teaches that the at least one client determines whether to retrieve the specific ones of the media files from the directory residing in the server based on the comparison (White: Paragraph [0028]. If there are differences, the client retrieves media files from the server, meaning that the client determined where to retrieve media files from.).

27. With regard to claim 35, White teaches that the at least one client determines what the specific ones of the media files to retrieve based on the comparison (White: Paragraph [0028]).

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28. With regard to claim 36, White teaches the invention as substantially claimed that the at least one client determines whether to keep or replace one or more locally stored specific ones of the media files based on the comparison.

However, Official Notice is taken that this functionality was well known in the art.

Thus, it would have been obvious to have the at least one client determine whether to keep or replace one or more locally stored media files based on the comparison.

The suggestion/motivation for doing so would have been that the client is a mobile device, while the home media server may be a non-mobile device. Thus, the home media server may have more files on it than the client could possible store. White already presents rules for determining which files are to be transferred (White: Paragraph [0032]). However, if files are specifically flagged for transfer, but the mobile server has no more space, then files have to be replaced in order to perform any transfer to the mobile media server. Further, no files removed from the mobile media server should be lost, as the synchronization is two directional, meaning the home media server should have a copy of each an every song. Thus, replacing songs in the mobile media server would allow the user to enjoy songs through the system of White that otherwise could not have been transferred due to space constraints.

29. With regard to claim 37, White teaches the invention as substantially claimed except that the at least one client keeps the one or more locally stored the specific ones of the media files based on the comparison and/or on availability of storage.

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However, Official Notice is taken that this functionality was well known in the art.

It would have been obvious to have the client of white keep the one or more locally stored media files based on the comparison and/or on availability of storage for similar reasons as presented with respect to claim 36.

30. With regard to claim 38, White teaches the invention as substantially claimed except that the at least one client replaces the one or more locally stored the specific ones of the media files based on the comparison and/or on availability of storage.

However, Official Notice is taken that this functionality was well known in the art.

It would have been obvious to have the client of white replace the one or more locally stored media files based on the comparison and/or on availability of storage for similar reasons as presented with respect to claim 36.

31. With regard to claims 39-44, 46, 48-52, and 55-64, the claimed invention is substantially similar to that of claims 1-6, 8, 10-14, and 29-38, and are rejected for substantially similar reasons.

Claim Rejections - 35 USC § 103

32. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

33. Claims 7, 9, 15-16, 19, 22-24, 27-28, 45, 47, and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over White as applied to claims 1-6, 8, 10-14, 17-18, 20-21, and 25-26 above, and further in view of Galensky et al. in US Patent 6,845,398, hereafter referred to as "Galensky."

34. With regard to claim 7, White does not teach expressly that the at least one client accesses and downloads the next portion of the specific ones of the media files while playing the previously downloaded and decoded portion of the specific ones of the media files.

However, Galensky discloses streaming media files from a multimedia server over a wireless network to a portable device (Galensky: Column 2, lines 8-13. The functionality described appears to be streaming, where the file is played while downloading future portions of the file.).

It would have been obvious to a person of ordinary skill in the art to combine streaming, as in Galensky, with the system of White.

The suggestion/motivation for doing so would have been that streaming allows the portable device to play the file without having to wait for the entire file to download (Galensky: Column 1, lines 60-65).

35. With regard to claim 9, White as modified by Galensky does not teach expressly that the at least one client utilizes a charging cradle plugged into a power source.

However, Examiner takes Official Notice that charging cradles were well known in the art.

Accordingly, it would have been obvious to have a portable device of White as modified by Galensky utilize some sort of charging cradle.

The suggestion/motivation for doing so would have been that the system of White as modified by Galensky could be utilized by more systems than simply the car, as disclosed by White (such as an MP3 player, as in Galensky: Column 1, lines 19-30). The portable device of Galensky, which White could clearly be modified to support as a client, would benefit from a charging cradle, as the charging cradle allows a user to have a stable platform on which to place the portable device in order to charge the device.

36. With regard to claim 15, White as modified by Galensky does not teach expressly that the server is connected to the Internet.

However, Galensky discloses that the multimedia server may be accessible over the Internet (Galensky: Column 3, lines 19-30).

It would have been obvious to combine the connection to the Internet of Galensky with the system of White.

The suggestion/motivation for doing so would have been that the Internet would allow additional media presentations to be downloaded to the media server of the system of White and Galensky, which would expand the library of available presentations for the client.

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37. With regard to claim 16, White as modified by Galensky teaches that the at least one client is capable of accessing, downloading, decoding, and playing streaming data of the specific ones of the media files from the Internet (The client White as modified by Galensky is capable of retrieving and streaming data from the media server (See the rejection of claims 15 and 7). Further, as per the rejection of claim 15, the media server connects to the Internet and can download additional media presentations from the Internet. Therefore, when the client retrieves that information from the media server, it is accessing data that was from the Internet.).

38. With regard to claim 19, White as modified by Galensky teaches the invention as substantially claimed except that the system comprises at least a first and a second client.

However, Galensky discloses utilizing a portable device (e.g. mp3 player) while White discloses using a mobile server located in a car. White also discloses utilizing a wireless hub (White: Figure 2, 120). Clearly, a person of ordinary skill in the art would be capable of connecting other portable devices, such as in Galensky, with the wireless hub of White (or, alternatively, a second car could be connected to the wireless hub).

Accordingly, it would have been obvious to have at least a second client in the system of White as modified by Galensky.

The suggestion/motivation for doing so would have been that having more than one device that can be connected to the hub would allow a user to have multiple media playing devices synchronized to the home media server. Thus, a user could have a

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portable mp3 player, that the user walks around with, and the automobile's mobile media server both synchronized with the users home media server without the need to acquire additional equipment beyond that required for the automobile's mobile media server's synchronization.

39. With regard to claim 22, the instant claim includes subject matter that is substantially similar to subject matter presented in claims 2 and 7, and is rejected for substantially similar reasons.

40. With regard to claims 23-24, the instant claims include subject matter that is substantially similar to claims 11-12, and is rejected for substantially similar reasons.

41. With regard to claims 27-28, the instant claim is substantially similar to subject matter presented in claims 15-16, and is rejected for substantially similar reasons (it is noted that at some point in the transmission of files from the Internet to the client, the transmission is in the form of a digital bitstream).

42. With regard to claims 45, 47, and 53-54, the claimed invention is substantially similar to that of claims 7, 9, and 15-16, and are rejected for substantially similar reasons.

Response to Arguments

43. Applicant's arguments filed 11/6/2008 have been fully considered but they are not persuasive.

44. On pages 18-27 of Applicant's remarks, Applicant argues the rejection of the instant claims. Many of Applicant's arguments appear to focus on the newly amended phrase, "specific ones of the media files."

However, the instant claims provide no detail as to what entails "specific ones of the media files." There is no requirement that the user selects specific media files, and only those media files are synchronized, or that the specific media files are somehow otherwise selected, and only those media files are synchronized.

Accordingly, "only specific ones of the media files" can refer to the media files that are synchronized in White. Even if White synchronizes all media files, or a random set of media files, as media files are synchronized, it can be said that specific media files were synchronized, where the specific media files that were synchronized are all of the media files. Accordingly, only specific ones of the media files would have been synchronized.

Applicant should amend the claims to clearly recite how the "specific ones of the media files" are selected.

45. On page 23, Applicant argues the rejection of claim 6, stating that the Examiner's interpretation of "portions of the media files" being able to be the whole media file.

However, Applicant has provided no evidence or disclosure that specifically shows that

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the word "entire" is, in fact, logically opposite to the meaning of "portion of." As such, the interpretation of the term "portion," as currently applied stands.

Even so, there is no requirement that an amount less than the entire media file is accessed, downloaded, and decoded at a time. The claim only requires that the client is able to perform these operations with respect to portions of the media file. As such, even if the claim required that the portion is less than the whole media file, the portion would still have the operation performed on it when the operation is performed with respect to the whole media file. Accordingly, Applicant should amend the claim to clearly require that less than the whole media file is accessed, downloaded, and decoded at a time.

46. On pages 24-26, Applicant argues the Official Notice taken with respect to claim 26, citing MPEP 2142, which states, "If the examiner does not produce a prima facie case, the applicant is under no obligation to submit evidence of nonobviousness."

However, the rejection of claim 26 includes the following:

"The suggestion/motivation for doing so would have been that the memory within the mobile media server of White would most likely not have infinite space. Therefore, only a finite number of media files can be stored within the memory. In cases where there is not enough space, rather than foregoing the process of synchronization all together, the user can erase files within the memory to allow for more files to be downloaded. It is noted that there is no requirement that this be done automatically,

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and a user manually performing the operation meets the language used in the instant claim.”

This statement constitutes a prima facie case of obviousness, as it is a clear articulation of the reason why the claimed invention would have been obvious (See MPEP 2142).

Further, it is noted that Applicant proceeds to traverse the Official Notice taken by arguing that White does not teach this functionality in the paragraph joining pages 24 and 25 of Applicant's remarks.

Further, on pages 25-26, Applicant traverses the Official Notice taken with respect to claim 29. Once again, Applicant traverses the Official Notice, simply alleging that White does not teach the claimed functionality.

Applicant is now referred to MPEP 2144.03 C, which states, “To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well known in the art.” Applicant has only stated that White does not disclosed the claimed functionality, but has not provided any specific arguments which states why the noticed fact is not considered to be common knowledge or well known in the art. Further, MPEP 2144.03 C states, "If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art

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because the applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.”

47. On pages 26-27, Applicant states that “the Final Office Action makes various Official Notice statements regarding claims 1-64 and the cited reference that are now moot in light of the above. As stated above, MPEP 2144.03 C, states, “To adequately traverse such a finding, an applicant must specifically point out the supposed errors in the examiner’s action, which would include stating why the noticed fact is not considered to be common knowledge or well known in the art.” Such a finding of Official notice should be traversed in the next response to the Office action as noted in MPEP 2144.03 C, “If applicant does not traverse the examiner's assertion of official notice or applicant's traverse is not adequate, the examiner should clearly indicate in the next Office action that the common knowledge or well-known in the art statement is taken to be admitted prior art because the applicant either failed to traverse the examiner's assertion of official notice or that the traverse was inadequate.”

48. Accordingly, after careful consideration, the rejection of the instant claims have been maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Christensen whose telephone number is (571)270-1144. The examiner can normally be reached on Monday through Thursday 6:30AM - 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Vaughn can be reached on (571) 272-3922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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